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ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

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Department of Defense
Civilian Personnel Manual
September 23, 1981

DEPARTMENT OF DEFENSE
CIVILIAN PERSONNEL MANUAL (CPM)
CPM BASIC INSTALLMENT NO. 5

CPM Chapter 930, Civilian Air Traffic Controllers, is issued herewith.

1. Add new pages as indicated below immediately preceding FPM Chapter 930.

<u>CPM Identification</u>	<u>Insert Pages</u>	<u>Explanation of Changes</u>
930	930-1 through 930-6 and Appendices A, B, and C	Adds DoD policies and guidance on implementation of Public Law 96-347 which modifies the conditions of employment for civilian air traffic controllers within the Department of Defense.

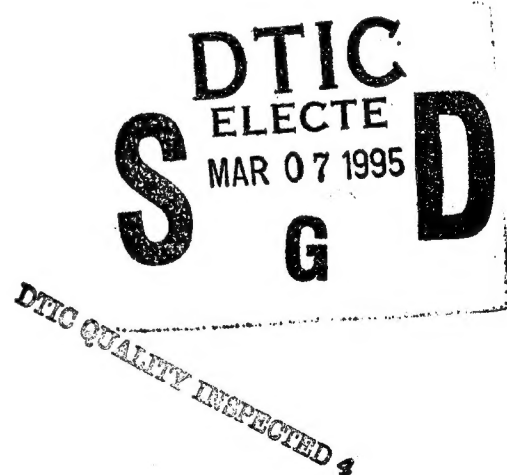
2. File this Installment Sheet immediately preceding CPM Chapter 272.

James M. Juliana

James M. Juliana
Acting Assistant Secretary of Defense
(Manpower, Reserve Affairs & Logistics)

Attachments

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CPM CHAPTER 930: CIVILIAN AIR TRAFFIC CONTROLLERS

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Subchapter 1. General1-1. PURPOSE

This chapter implements Public Law 96-347 (reference (a) and Appendix A), which modifies the conditions of employment for civilian air traffic controllers within the Department of Defense. These modifications include retirement benefits; job training and special appeal procedures for those who are involuntarily removed from air traffic control work; and maximum age limitations for recruitment.

1-2. BACKGROUND

Enacted on September 12, 1980, reference (a) established personnel policies for DoD civilian air traffic controllers identical to those that apply to Department of Transportation (DoT) controllers in areas such as retirement, maximum career entry age, second-career training, mandatory separation of controllers between age 56 and 61, and special appeal procedures. However, Section 768 of the "Department of Defense Appropriation Act" (reference (b)), 1981, precludes the use of funds for second-career training of air traffic controllers of the Department of Defense. For a number of years during the 1960s and early 1970s, the Federal Aviation Administration (FAA), a component of the DoT, and employee organizations representing controllers in that agency consistently advocated legislative authority for early retirement and other benefits tailored especially to meet the needs of aviation safety and the controller work force. These benefits were deemed necessary because air traffic control is a unique occupation that requires very high physical and mental standards. In addition, this work experience is not readily transferable to other occupational fields. Public Law 92-297 (reference (c)), enacted May 16, 1972, established special personnel policies for controllers within the FAA. With the passage of reference (a), DoD civilian controllers are under the same policies.

Subchapter 2. Policy, Coverage, and Procedures

2-1. POLICY

It is the policy of the Department of Defense to recruit, develop, and maintain the best possible civilian controller work force. To attain this objective, every reasonable effort shall be made to enable controllers to improve and maintain their professional skills. When it is necessary for a controller to leave the active control environment for physical or mental health or for other nondisciplinary reasons that affect the maintenance of high safety standards in the control of air traffic, he or she shall be assured fair treatment through the appeals procedures established by 5 U.S.C. 3383 (reference (d)) and this chapter.

2-2. COVERAGE

a. This chapter applies to full-time permanent civilian controllers in the Department of Defense who meet all of the following requirements; or to the immediate supervisor of a nonsupervisory employee who meets all of the following requirements.

- (1) Officially assigned to an air traffic control facility;
- (2) Actively engaged in the separation and control of live air traffic; and
- (3) Occupies a position that requires him or her to meet on a continuing basis the physical and mental qualification standards established by the Office of Personnel Management (OPM) for an air traffic controller.

b. This coverage includes and is limited to full-time professional-level controllers and their immediate supervisors; those assigned as flow controllers; and employees receiving development training at or above the established entry levels, as defined by the classification standards and the OPM examination announcement at time of entrance on duty. Also included are controllers assigned to a combined flight-service station or tower in which the tower duties are performed on a regular, recurring basis. When a second-level or higher supervisor is required to serve as a controller or as the immediate supervisor of a controller performing the full range of first-level supervisory duties on a regular, recurring basis for a substantial portion (such as 50 percent or more) of his or her time and these duties are included in the official position description, he or she shall be covered under Public Law 96-347 (reference (a)).

c. This coverage does not include employees temporarily assigned to control of live air traffic primarily for the purpose of maintaining proficiency in order to aid in the performance of their regularly assigned duties or primarily for research, development, or evaluation purposes. Also not included are employees receiving predevelopmental training at grades below the normal entrance level, supervisors of flow controllers, and second-level and higher-level supervisors, except as provided above.

d. Decisions regarding application of coverage provisions shall be made by the DoD Component in which the controller is employed.

2-3. PUBLIC LAW 96-347 HIGHLIGHTS

The Public Law provides that

a. The Secretary of Defense shall prescribe regulations and determine application of the term "air traffic controller" as used in the act.

b. The regulations (that is, this Civilian Personnel Manual (CPM) chapter) shall designate, determine, and fix the maximum limit of age within which an original appointment to a position as an air traffic controller may be made on or after December 11, 1980. Such determination shall have the concurrence of the OPM.

c. A controller who is eligible for immediate retirement on or after December 11, 1980, shall be separated from the federal service when such separation is necessary in the interest of aviation safety, the efficient control of air traffic, or the preservation of the physical or mental health of the controller.

d. Payment or reimbursement of a controller shall be made for all or part of the necessary expenses of authorized training up to the full equivalent of 2 years of training. This applies to controllers with a minimum of 5 years of creditable service removed from controller work for loss of technical proficiency, medical disqualification, or preservation of his or her physical and mental health.

e. An air traffic controller shall be separated from the service on the last day of the month in which he or she becomes age 56. This authority does not apply to employees who originally were appointed to an air traffic control position within the Department of Defense prior to December 11, 1980.

f. A retirement annuity, of no less than 50 percent of the high-3 average salary, shall be accorded for controllers voluntarily or involuntarily separated from the service on or after December 11, 1980, except for removal for cause on charges of misconduct or delinquency, after completing 25 years as an air traffic controller or after becoming 50 years old and completing 20 years of service as an air traffic controller.

2-4. MAXIMUM ENTRY AGE

a. Consistent with FAA policy, the Department of Defense has established a maximum entry age of 30 years for original appointment into a civilian controller position on or after December 11, 1980. This precludes, without exception, the initial appointment or reassignment to such a position of persons who have reached their 31st birthday. However, this provision does not prohibit the transfer of a person who is 31 or older to a civilian controller position who is transferred, without a break in service, from an air traffic controller position defined as such by regulations issued in carrying out 5 U.S.C. 2109 (reference (d)). Nor does it prohibit the appointment of those candidates for employments who met the maximum age limit at the time their names were certified from the OPM.

b. Individuals employed in an entity of public or private enterprise, taken over by the Department of Defense, who have reached their 31st birthday and who have not previously been employed in a position covered by this chapter are similarly precluded by the maximum entry age from conversion into a civilian controller position.

2-5. MAXIMUM RETENTION AGE

a. Public Law 96-347 (reference (a)) established a maximum age of 56 for retention in a civilian controller position in the Department of Defense. Under this provision, separation shall take place on the last day of the month in which a controller becomes age 56. In addition, the law also provides for exemptions to this provision, up to age 61, for controllers having exceptional skills and experience.

b. The maximum retention age provisions do not apply to controllers in the Department of Defense who had received their original appointment to a controller position prior to December 11, 1980. In view of this and the maximum entry age of 30 applicable to these positions, it is not anticipated that these provisions will actualize for several years. Nevertheless, those employees receiving original appointments to a controller position on or after December 11, 1980, must be notified in writing by the DoD Component head or his or her designee that they shall be subject to the maximum retention age provision. A copy of this notification should be kept as permanent material in the employees' Official Personnel Folders.

2-6. REMOVAL DETERMINATION

a. Involuntary Separation for Retirement. A civilian controller who is eligible for immediate retirement on or after December 11, 1980, and cannot be assigned to another position shall be separated involuntarily from the service if the head of the DoD Component concerned determines that the separation is necessary in the interest of:

- (1) Aviation safety;
- (2) The efficient control of air traffic; or
- (3) The preservation of the physical or mental health of the employee.

Such determinations shall be consistent with the criteria and procedures under 5 U.S.C. 3382 (reference (d)).

b. Disqualification for Medical Reasons. An air traffic controller will not be allowed to continue to perform controller duties if he or she is found to be medically disqualified for duties as a controller or when disqualification is necessary for the preservation of physical or mental health. Medical determinations and resulting personnel actions shall be consistent with provisions in the Federal Personnel Manual on medical qualification and medical determinations.

2-7. REVIEW PROCEDURES

The notice and review procedures in 5 U.S.C. 3383 shall be carried out, in full, by the DoD Component concerned.

2-8. RETIREMENT

A DoD civilian controller who meets the service and age requirements for optional retirement under Public Law 96-347 (reference (a)) has a vested right to such entitlement, which he or she may exercise at his or her option, regardless of subsequent job assignments within the federal service. The annuity computed for employees retiring under the provisions of this chapter on or after December 11, 1980, is based on the regular retirement formula with a guaranteed minimum equal to 50 percent of the high-3 average salary. The annuity is not reduced, even if the employee is under age 55 at the time of separation.

2-9. SUPPLEMENTATION

Secretaries of the Military Departments and Directors of Defense Agencies who employ civilian air traffic controllers shall supplement this part of the DoD CPM. Supplements shall be forwarded to the Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy).

APPENDIX A: PUBLIC LAW 96-347, ENACTED SEPTEMBER 12, 1980

AIR TRAFFIC CONTROLLER'S
RETIREMENT

Public Law 96-347
96th Congress

An Act

Sept. 12, 1980

[H.R. 1781]

Air traffic
controllers,
retirement
provisions.
5 USC 2109.
Definitions.

To amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2109 of title 5, United States Code, is amended to read as follows:

"§ 2109. Air traffic controller; Secretary

"For the purpose of this title—

"(1) 'air traffic controller' or 'controller' means an employee of the Department of Transportation or the Department of Defense who, as determined under regulations prescribed by the Secretary, is actively engaged in the separation and control of air traffic, or is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility; and

"(2) 'Secretary', when used in connection with 'air traffic controller' or 'controller', means the Secretary of Transportation with respect to controllers in the Department of Transportation, and the Secretary of Defense with respect to controllers in the Department of Defense."

(b) Sections 3307(b), 3381(a), 3382, 3383(a), 3384, 3385, and 8335(a) of title 5, United States Code, are each amended by striking out "Secretary of Transportation" each place it appears and inserting in lieu thereof "Secretary".

(c)(1) Section 3381(c)(1) of title 5, United States Code, is amended by striking out "in the Department of Transportation" and inserting in lieu thereof "in the Executive agency in which the controller is employed".

(2) Section 3383(b)(2) of title 5, United States Code, is amended by striking out "the Department of Transportation" and inserting in lieu thereof "the Executive agency in which the controller is employed".

(3) Section 3383(d) of title 5, United States Code, is amended by striking out "within the Department of Transportation" and inserting in lieu thereof "within the Executive agency in which such controller is employed".

(d) The analysis of chapter 21, of title 5, United States Code, is amended by striking out the item relating to section 2109 and inserting in lieu thereof the following:

"2109. Air traffic controller; Secretary."

SEC. 2. Section 8335(a) of title 5, United States Code, shall not apply to an individual appointed as an air traffic controller in the Department of Defense before the date of the enactment of this Act.

5 USC 8335 note.

SEC. 3. This Act shall take effect on the later of—

Effective date.

(1) October 1, 1980, or

5 USC 2109 note.

(2) the ninetieth day after the date of the enactment of this Act.

Approved September 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1076 (Comm. on Post Office and Civil Service).

SENATE REPORT No. 96-902 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 9, considered and passed House.

Aug. 27, considered and passed Senate.

○

APPENDIX BSeptember 11, 1981
NUMBER 1400.28

ASD(MRA&L)

Department of Defense Directive

SUBJECT: Civilian Air Traffic Controllers

References: (a) Title 5, United States Code, as amended by Public Law 96-347, December 11, 1980
(b) DoD 1400.25-M, "Civilian Personnel Manual," July 30, 1978, authorized by DoD Directive 1400.25, "Department of Defense Civilian Personnel Manual System," January 24, 1978

A. PURPOSE

This Directive establishes DoD policy under reference (a) to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes.

B. APPLICABILITY

The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, and the Defense Agencies (hereafter referred to as "DoD Components") that employ civilian air traffic controllers.

C. POLICY

It is the policy of the Department of Defense to recruit, develop, and maintain the best possible civilian air traffic controller work force. To attain this objective, every effort shall be made to enable controllers to improve and maintain their professional skills. When it is necessary for a controller to leave the active control environment for physical or mental health or for other nondisciplinary reasons that affect the maintenance of high safety standards in the control of air traffic, he or she shall be assured fair treatment through the appeals procedures established by reference (a).

D. RESPONSIBILITIES

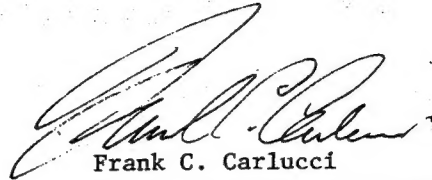
1. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) shall issue additional instructions to carry out the responsibilities of the Secretary of Defense and to establish uniform policies and practices among DoD Components in accordance with Chapter 930, reference (b).

2. Heads of DoD Components shall issue internal policies and procedures consistent with this Directive.

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1400.28

E. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) within 120 days.

A handwritten signature in dark ink, appearing to read "Frank C. Carlucci", is written over a faint, circular official seal.

Frank C. Carlucci
Deputy Secretary of Defense

APPENDIX C: REFERENCES

- (a) Public Law 96-347, "Air Traffic Controller's Retirement," September 12, 1980
- (b) "Department of Defense Appropriation Act," Section 768, December 15, 1980
- (c) Public Law 92-297, "Air Traffic Controllers-Career Program," May 16, 1972
- (d) Title 5, United States Code, Sections 2109, 3382, and 3383